



Comptroller General
of the United States

943254

Washington, D.C. 20548

Decision

Matter of: Bob Jones Realty Company

File: B-260208

Date: April 24, 1995

DECISION

Bob Jones Realty Company (BJRC) protests the proposed award of several contracts for real estate asset management (REAM) services in the State of Virginia¹ under request for proposals (RFP) No. H03R93060500000, issued by the Department of Housing and Urban Development. We dismiss the protest.

The RFP stated that the agency would make award to the most advantageous offeror, cost or price and other factors considered. The RFP stated that technical factors, which included demonstrated experience, would be more important than cost or price. Seventeen proposals were received and evaluated; the protester was second ranked technically in each geographic area. However, the agency decided to award the contract to the highest technically rated offeror for each area.² This protest followed.

The protester's only basis of protest is its allegation that bias on the part of the agency deprived the firm of any award. Specifically, the protester asserts that the agency's Chief Property Officer "confirmed" to the chairman of BJRC "that a number of unnamed key employees [of the agency] had participated in conversations during which jealousy was expressed at the amount of personal wealth [the chairman of BJRC] had acquired over the years [through a disproportionately large number of REAM contracts in

¹The RFP requires the successful contractors to manage single family properties owned by or in the custody of the agency within three geographic areas: Virginia Beach, South Richmond, and Petersburg, Virginia.

²The agency reports that the intended awardee for one of the geographical areas, Virginia Beach, was determined to be other than small by the Small Business Administration (SBA) and that the agency will therefore enter into discussions with the protester. The agency states that any protest concerning the Virginia Beach area is premature. We agree.

Virginia]" and that the BJRC chairman should no longer be "allowed to control such a large portion" of Virginia's REAM contracts. The protester states that, in another conversation, an agency official told the BJRC chairman that she sent cure notices to the firm because of this belief about his wealth within the agency.³ According to the protester, these "conversations"--which the protester characterizes as becoming a "policy" within the agency--constitute a de facto debarment or exclusion of the firm and result in a breach of the agency's duty to consider proposals fairly and honestly.

To show bias, there must be proof that the agency had a specific intent to injure the protester. Wayne D. Josephson, B-256243, May 12, 1994, 94-1 CPD ¶ 307. Unfair or prejudicial conduct will not be attributed to procuring agency officials on the basis of inference, hearsay, speculation, or supposition. See Crystal Indus., Inc., B-205710; B-205928, July 27, 1982, 82-2 CPD ¶ 82.

As stated above, the alleged factual basis of the protest concerns two conversations, one of which was with a government official who allegedly related other conversations between key personnel who allegedly believed that the chairman of the protester had too much personal wealth and should not be allowed to control such a large portion of the agency's management services requirements; the other conversation is of similar substance. The substance of these conversations has been denied in affidavits submitted to our Office by the agency personnel allegedly involved. We think these alleged conversations--partly based on double hearsay--are not probative.⁴

Significantly, the protester does not point to any bias on the part of the evaluators or source selection official. The protester refers to a small portion of the evaluation documents which allegedly shows that the evaluators improperly considered information concerning the protester's performance under its existing contract, including post-cure

³The protester also cites two cure notices received by the firm under its current contract as evidence of bias. The protester characterizes these cure notices as "bogus" and states that its performance under its current contract should not have been evaluated by the agency.

⁴Similarly, we think the existence of two cure notices under the protester's current contract does not, by itself, constitute probative evidence of bias on the part of the agency. Further, our review of the entire evaluation record does not show that the cure notices, by themselves, altered the agency's selection decision.

notices with which the protester does not agree. However, the agency is permitted to consider information outside the proposal concerning a contractor's performance under a current contract where, as here, the solicitation includes an evaluation of past experience. See George A. and Peter A. Palivos, B-245878.2; B-245878.3, Mar. 16, 1992, 92-1 CPD ¶ 286. We conclude that the protest fails to state sufficient probative facts as required by our Bid Protest Regulations, 4 C.F.R. § 21.3(m) (1995).

The protest is dismissed.



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